



The Town of Fenwick Island

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REGULAR MEETING OF THE TOWN COUNCIL

Friday, October 22, 2021

MEETING HELD VIA HYBRID METHOD

MINUTES

In Attendance

Town Council Members:

Mayor Carmean, Vice Mayor Napolitano, Treasurer Rymer, Secretary Magdeburger, Council Member Bortner, Council Member Breger, Council Member Benn

Staff in Attendance:

Town Manager Schuchman, Police Chief Devlin, Finance Manager Gary, Public Works Manager Locke, Town Administrator Menominee, Public Works Supervisor Reed, Police Clerk Ellinger, Sgt. Parsons, Cpl. Kerin and Town Solicitor Mette

Others in Attendance:

Along with the Town Council and Staff, there were an additional 23 participants that called in to the meeting and 23 in-person attendants.

1. President's Report - Mayor Carmean

Mayor Carmean reported that there are more than 2 dozen homes currently being constructed in Fenwick: As such, she asked residents to remain patient with the construction noise as Town ordinances only allow pilings to be driven around this time of year. She also reported that Council Member Benn has been working hard looking into bayside flooding and coming up with a solution. Mayor Carmean said that the Sussex County Property Tax Reassessment is underway with a flaw reported in the process. If people are concerned, they should contact Sussex County Council Members. She also reported that council members have met with a US Wind representative, Michael Dunmeyer who not only appeared unconcerned about the safety of marine and bird life but also predicted that residents would get used to seeing the turbines on the ocean horizon. She asked the Environmental Committee to hold a forum that would present both sides of the wind energy movement to the community. Mayor Carmean reported that she believes the number one priority of the FIPD is community safety, which is also the most important

goal of any local government. FIPD is holding a fundraiser for Cpl. Keith Heacock on November 19th at Papa Grande's in Fenwick Island. Mayor Carmean thanked the staff, community members and volunteers who have made the transition period successful. She reported that 7 public committee meetings have been held since September.

2. Approval of Minutes from September 24, 2021 Regular Town Council Meeting

MOTION to approve the minutes from the September 24, 2021 meeting with the suggested corrections.

Moved by: Natalie Magdeburger

Seconded by: Richard Benn

MOTION passed unanimously.

3. For Discussion and Possible Action:

- 3.1. Windsor Teak Bench Donation- Mr. Ken Glass
Mayor Carmean introduced Mr. Ken Glass of Windsor Teak. Mr. Glass donated a teak bench which is now in the Town Hall. Mayor Carmean presented Mr. Glass with a certificate of appreciation.
- 3.2. FBI Leeda Award- Former President FBI Leeda John Horsman
Chief Devlin introduced Former President of FBI-LEEDA John Horsman. Mr. Horsman said that FBI-LEEDA stands for Law Enforcement Executive Development Association, which is an international organization with over 6,000 members. Mr. Horsman said that Chief Devlin and Sgt. Parsons completed the training and are the first in Delaware to receive the award as well as one of 25 agencies to receive the award in the United States.
- 3.3. American Recovery Program Act Legal Fund
Mayor Carmean reported that the Town has received \$120,000 from ARPA and will receive another \$120,000 next spring. She said that it does have federal regulations attached to it. The State of Delaware has set up a legal office to provide direction for how the funds may be used. The fee to use this resource is

\$970.

MOTION to pay the fee to be a part of the legal resource from the State of Delaware.

Moved by: Vicki Carmean

Seconded by: Natalie Magdeburger

MOTION passed unanimously.

3.4. Full-Time Police Clerk Decision

Mayor Carmean reported that a decision has been made to move Erin Ellinger from part-time to full-time Police Clerk. Secretary Magdeburger stated the police building had to be closed while the officers were patrolling the street.

MOTION to accept Erin Ellinger as a full-time Police Clerk.

Moved by: Natalie Magdeburger

Seconded by: Janice Bortner

MOTION passed unanimously.

3.5. Town Manager Decision

Secretary Magdeburger reported that over 20 people applied for the Fenwick Island Town Manager position from various states and with various salary requirements and education levels. During the search, an application came in which was very exciting for Fenwick. Ms. Magdeburger stated that the selected candidate exemplifies trustworthiness, respect, consideration, organization, and attention to detail. Secretary Magdeburger said that with the deep relationships that the candidate holds with DEMA, DNREC, FEMA and the Town of Fenwick Island, that Pat Schuchman was the unanimous choice by Council for the new Town Manager position.

MOTION to approve Pat Schuchman as the Town of Fenwick Island's new Town Manager.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

MOTION passed unanimously.

3.6. Town Administrator Decision

Secretary Magdeburger reported that the Council would like to promote Town Clerk Menominee as the new Town Administrator. Ms. Menominee had exhibited a wonderful work ethic during the transition and was very instrumental in making the transition as smooth as possible. Ms. Magdeburger also said that along with the promotion would come some new duties in regards to helping to find grants, and supporting Town Council.

MOTION to approve Raelene Menominee as the new Town Administrator.

Moved by: Janice Bortner

Seconded by: Bill Rymer

MOTION passed unanimously.

3.7. Public Works Pipeline Camera

Mayor Carmean reported that Public Works needed a pipeline camera which could be used to determine if pipes are broken or clogged, thereby not allowing water to flow properly. Council Member Benn stated that the Infrastructure Committee voted unanimously to approve this purchase as a step in the right direction for the Public Works Department's effort to correct bayside flooding.

MOTION to approve the purchase of the pipeline camera for Public Works.

Moved by: Richard Benn

Seconded by: Natalie Magdeburger

MOTION passed unanimously.

3.8. Fenwick Freeze

Vice Mayor Napolitano reported that the Fenwick Freeze would be taking place on January 1, 2022 at the Bayard Street beach end. She said there would be a small bonfire and hot chocolate provided. Vice Mayor Napolitano stated that they would need Council's approval for the event and funding of

approximately \$4,200 for t-shirts and towels.

MOTION to approve the Fenwick Freeze and approximately \$4,200 in funds to cover costs.

Moved by: Jacque Napolitano

Seconded by: Janice Bortner

MOTION passed unanimously.

3.9. Residential Advocacy referral to C&O

Council Member Bortner reported there were two motions from the October 11, 2021 Residential Advocacy meeting that the committee would like to refer to Charter and Ordinance for possible consideration and action.

MOTION to refer the prohibition of residential properties as group homes for non-residential interests in incorporated Fenwick Island, Delaware to Charter and Ordinance.

Moved by: Jacque Napolitano

Seconded by: Paul Breger

MOTION passed unanimously.

3.10. Organization Meeting Process Referral to C&O

Mayor Carmean reported that the language in the code to define the election process and Organizational meeting needs to be further clarified.

MOTION to refer the topics of the election process and the Organizational Meeting to Charter and Ordinance.

Moved by: Vicki Carmean

Seconded by: Richard Benn

MOTION passed unanimously.

3.11. Contact with Town Solicitor to be Limited

Mayor Carmean requested that any contact with Town Solicitor Mette should to be filtered through herself or Secretary Magdeburger to prevent unnecessary expenses.

3.12. FOIA Request Answered

Secretary Magdeburger reported there was a FOIA request about the amount of money spent by the Town for defending the lawsuit by Vice Mayor Napolitano and other Fenwick Island property owners. She said the lawsuit filed was based on a Writ of Mandamus asking the Town to make an official decision as opposed to seeking monetary damages. As such, it was not believed that any damages would be sought. Secretary Magdeburger estimated that after reviewing the former Town Solicitor's invoices around \$5800 had been spent from August, 2020 to date defending the lawsuit. She also advised that the Town did not expect to pay any damages. Secretary Magdeburger also said that it did not cost the Town anything to answer the FOIA request as she did the work herself.

3.13. Lawsuit Ended

Mayor Carmean reported that the lawsuit is in the process of being resolved with an offer to dismiss without prejudice being offered by the Petitioners and she will provide an update once it is totally completed.

3.14. ACT Dues

Mayor Carmean reported that the Association of Coastal Towns (ACT) meets once per month to discuss various issues or topics that may be affecting the Towns. She said that this month they discussed wind turbines, the tax reassessment for Sussex County and the maintenance of the Little Assawoman canal. Mayor Carmean said that the ACT dues are \$3,000 per year, but she believes it is worthwhile because the organization has hired lawyers, specialists and lobbyists who create a bigger platform for important issues.

MOTION to proceed with payment for ACT dues.

Moved by: Vicki Carmean

Seconded by: Paul Breger

MOTION passed unanimously.

3.15. Approval of 2021-2022 Boards/Committees

Mayor Carmean reported that after reading Title 22, which says "The Mayor with the consent of the legislative body thereof, shall appoint members of the Board of Adjustment and all such appointments shall be confirmed by a majority vote of the elected members of the legislative body." She stated that it is a 3-part process, the mayor appoints, council confirms with a majority vote and three-year terms are established so that at least one member shall expire each year. Mayor Carmean presented the names of nominees for the Board of Adjustments.

Tim Collins, former Chairman of the Board of Adjustments, objected to the reorganization of the Board and wanted to know why the restructuring took place. Mayor Carmean explained that meeting records show that in past years the state mandated process was not followed in that the slate of nominees while presented was never officially confirmed, by majority vote, by Fenwick's Council. As such, any decisions by those Boards could have negative legal consequences. Thus, it is important/mandatory that Fenwick's Council follows the state regulations.

Mayor Carmean reported that the Planning Commission is also state mandated under Title 22, which says the commission "shall consist of not less than 5 nor more than 9 members and appointed by the mayor, subject to confirmation by the Council.. for terms of 2-5 years.. arranged those terms of at least one member shall expire each year." She again stated that it is a 3-part process, the mayor appoints, council confirms and terms are arranged so that at least one member shall expire each year. Mayor Carmean presented the Planning Commission nominees.

Mayor Carmean reported that the current Board of Elections was voted and confirmed in May 2021. She said that a newly appointed Board will begin its term in May 29, 2022 to

conduct the next election in August 2022. Mayor Carmean presented the Board of Elections nominees.

Mayor Carmean reported that there were a tremendous number of applications submitted for the Town committees. She presented the Committee nominees, noting that there were a couple of available spots that still needed to be filled for the Commercial Planning & Building Review Committee and the Environmental Committee.

MOTION to approve the Board of Adjustment.

Moved by: Natalie Magdeburger

Seconded by: Paul Breger

MOTION passed unanimously.

MOTION to approve the Planning Commission.

Moved by: Vicki Carmean

Seconded by: Richard Benn

MOTION passed unanimously.

MOTION to approve the Board of Elections.

Moved by: Natalie Magdeburger

Seconded by: Jacque Napolitano

MOTION passed unanimously.

MOTION to approve the Town of Fenwick Island Committees.

Moved by: Vicki Carmean

Seconded by: Jacque Napolitano

MOTION passed unanimously.

- 3.16. Council Member Bortner Absence- 12/3/21 and Vice Mayor Napolitano Absence- 2/25/22

Mayor Carmean said that Council Member Bortner would need an excuse for the 12/3/2021 meeting.

MOTION to approve Council Member Bortner's excuse.

Moved by: Richard Benn

Seconded by: Bill Rymer

MOTION passed unanimously.

3.17. Holiday Tree Lighting- December 4th

Mayor Carmean reported there was a request for a Holiday Tree Lighting on December 4th that would not exceed \$300 in expenses.

MOTION to approve the Holiday Tree Lighting and expenses.

Moved by: Jacque Napolitano

Seconded by: Paul Breger

MOTION passed unanimously.

4. Treasurer's Report - Treasurer Rymer

Treasurer Rymer reported there was a \$500,000 cash increase during the month. He also said that expenses were in line for the first two months. Treasurer Rymer also reported there was \$168,000 of building permits in September alone, noting that the yearly forecast is \$245,000. He also reported the Town received almost all the rest of the property tax payments along with \$37,000 in RTT.

MOTION to approve the Treasurer's Report.

Moved by: Natalie Magdeburger

Seconded by: Paul Breger

MOTION passed unanimously.

5. Department Reports

5.1. Building Report- Building Official Schuchman

Town Manager Schuchman submitted her building report and license report. She reported September was a record month for building licenses. Town Manager Schuchman said there were 23 active new buildings under construction. She also said there was 6 new business permits issued.

5.2. Public Works Report- Public Works Manager Locke

Public Works Director submitted his report. He reported that they have received 2 valves and would be installing them the following week.

5.3. FIPD- Chief Devlin

Chief Devlin reported FIPD is holding a fundraiser for fallen officer Cpl. Keith Heacock on December 19th at Papa Grande's Fenwick. He also said that the FBI-LEEDA is important for the whole department as it shows they all strive for excellence. Chief Devlin also reported the Police Department has received a grant for \$24,000 and another has been submitted for \$4,000 in state grant funding. He also reported that 3 bids had been received to wrap the cars so residents can recognize the patrol cars.

6. **Committee Reports**

Beach Committee- Vice Mayor Napolitano stated that the Fenwick Freeze will be taking place on January 1st on Bayard Street at 10am. She asked for everyone's support. Vice Mayor Napolitano also stated the Beach Committee was looking into ways to improve trash collection at the dune/beach ends during the summer months.

C&O- Secretary Magdeburger stated the first meeting was held. She also said that a hearing for the proposed amendment was tentatively going to be held November 30th. Secretary Magdeburger stated there are some topics that need to be referred to C&O: shuttles, pods, parking in the residential areas, regulation to clarify new Council's organizational meeting and Code rewrite/update. She said that the Code update has been going on since March, but there are no documents supporting any work had been done to date with the Town spending \$20,000 for that work.

Dredging- Treasurer Rymer reported the first meeting was held and appreciated the public support/participation. He also reported the developer said there are 2 or 3 smaller locations which would accept all of the 19,000 cubic yards. Treasurer Rymer did state there is one hiccup which involves a price increase due to the cost of additional piping work and the locations would need more construction work to access them. He also noted the committee is moving forward with the tests, one is archaeological at \$31,000 worth of testing/survey work. Treasurer Rymer reported this survey would have to happen in order to move forward with any type of dredge work and is hoping it will take place the first or second week of November. He said the next test is a second round of chemical

testing at \$18,000 which involves the concerns of placing the dredge material and what the material consists of.

Emergency Management- Mayor Carmean reported that the Committee met at the Police Station for their first meeting. She said all the committee members briefed about hurricanes and other weather related events, which were outlined in Chief Devlin's emergency management plans.

Environmental- Council Member Breger reported that the Council has met with US Wind about wind energy. He said the committee members are trying to connect with Ocean City, Bethany, and South Bethany in regards to a unified approach.

Infrastructure- Council Member Benn reported the committee will meet on the first Tuesday of every month. He said that committee members did approve recommending the funds for the camera. Council Member Benn said the next meeting would consist of a presentation from GMB. He said there are ARPA funds available for bayside flooding remediation and invited everyone to attend the next meeting.

Sidewalk Project- Mayor Carmean reported she has been in touch with Sonia Marichic of Century Engineering finalizing the plans for the sidewalks.

Residential Advocacy- Council Member Bortner reported that the committee is focused on enhancing the quality of life by focusing on beautification, communication and engagement and evaluating the survey. Council Member Bortner said they would also like to promote activities. She said that it is a community committee and is open to suggestions.

MOTION to refer topics of shuttles, pods, parking in residential areas, regulation to clarify new Council's organizational meeting and Code rewrite/update to Charter & Ordinance.

Moved by: Richard Benn

Seconded by: Bill Rymer

MOTION passed unanimously.

7. **Old Business**

Mayor Carmean reported that the surveys were printed and sent out. Residents/property owners should be expecting those in their mailboxes by the weekend.

8. **New Business**

Treasurer Rymer said since there is an ordinance addressing mechanical heights on roofs, Charter and Ordinance should consider appropriate screening for roof mechanicals.

Mayor Carmean asked the Boards to meet and hold their organizational meetings in the next couple weeks.

MOTION to refer screening for roof mechanicals to C&O.

Moved by: Richard Benn

Seconded by: Jacque Napolitano

MOTION passed unanimously.

MOTION to refer setting a noise standard for mechanicals to Charter & Ordinance.

Moved by: Natalie Magdeburger

Seconded by: Vicki Carmean

MOTION passed unanimously.

9. **Upcoming Events and Meetings:**

- 9.1. October 28- Dredging Meeting @ 1pm
- 9.2. November 1- Residential Advocacy Meeting @ 10am
- 9.3. November 2- Infrastructure Meeting @ 10am
- 9.4. November 4- Beach Meeting @ 10am
- 9.5. November 11- Town Hall Closed- Veteran's Day
- 9.6. November 25 & 26- Town Hall Closed- Thanksgiving Holiday
- 9.7. December 3- Town Council Meeting @ 3:30pm
- 9.8. December 4- Holiday Tree Lighting @ 5:30-7:30pm

10. **Public Participation**

Amy Kyle, 1205 Bunting Ave- Ms. Kyle stated that the Town's beaches are experiencing more erosion than what is normally expected for this time of

year. She said she is raising this concern because beach replenishment is happening in Ocean City. She said she is not sure if there is a solution or not.

Lynn Andrews, 1205 Schulz Rd- Ms. Andrews said the new Council is doing a miraculous job but wondered what would be happening with the Building Inspector title.

11. Executive Session

For preliminary discussion on site acquisitions for any publicly funded capital improvements; strategy sessions, including those involving legal advice or opinion for an attorney-at-law, with respect to collective bargaining or pending or potential litigation; discussion of the content of documents, excluded from the definition of "public record"; and personnel matters in which the names, competency and abilities of individual employees are discussed. Pursuant to 29 Del.C. § 10004(B)(2), (4), (6), & (9).

12. Adjournment

MOTION to adjourn the meeting.

Moved by: Vicki Carmean

Seconded by: Jacque Napolitano

MOTION passed unanimously.